

BEFORE THE
COMMISSION ON STATE MANDATES
STATE OF CALIFORNIA

IN RE TEST CLAIM ON:

Penal Code Section 679.02 (a)(12),
as added by Chapter 411, Statutes of 1995;
Filed on December 23, 1996;
By the County of Santa Clara,
Claimant.

NO. CSM - 96-358-01

Crime Victims' Rights

PROPOSED STATEMENT OF
DECISION PURSUANT TO
GOVERNMENT CODE SECTION
17500 ET SEQ.; TITLE 2,
CALIFORNIA CODE OF
REGULATIONS, DIVISION 2,
CHAPTER 2.5, ARTICLE 7.

PROPOSED STATEMENT OF DECISION

Issue: Do the provisions of section 679.02, subdivision (a)(12), of the Penal Code, as added by Chapter 411, Statutes of 1995, impose a new program or a higher level of service in an existing program upon local agencies within the meaning of section 6, article XIII B of the California Constitution and Government Code section 17514 by requiring counties to notify victims of specified violent felonies, and other victims of felonies on their request, of pending pretrial dispositions?

This test claim was heard by the Commission on State Mandates (Commission) on February 27, 1997, in Sacramento, California, during a regularly scheduled hearing. Allan Burdick appeared on behalf of the County of Santa Clara. There was no testimony in opposition to the test claim.

The record included a letter from the Department of Finance, which concurred with the claimant's view that the subject statute resulted in a reimbursable state mandated program by requiring prosecuting attorneys to notify a victim of a violent felony, or the next of kin in the case of a homicide, of a pending pretrial disposition before a change of plea is entered before a judge.

At that hearing, the test claim was submitted, and the vote was taken.

The law applicable to the Commission's determination of a reimbursable state mandated program is Government Code section 17500 and following, and section 6, article XIII B of the California Constitution and related case law.

BACKGROUND AND FINDINGS OF FACT

The claimant alleges that the provisions of Penal Code section 679.02 (a)(12), as added Chapter 411, Statutes of 1995, imposed a new program or higher level of service within the meaning of section 6, article XIII B of the California Constitution and section 17514 of the Government Code by requiring counties to notify victims of specified violent felonies, and other victims of felonies on their request, of pending pretrial dispositions. The statute which is the subject of this test claim, is as follows:

Penal Code section 679.02 (a)(12), as added by Chapter 411, Statutes of 1995, states:

“(a) The following are hereby established as the statutory rights of victims and witnesses of crimes:

“

“(12) To be notified by the district attorney’s office where the case involves a violent felony, as defined in subdivision (c) of Section 667.5, or in the event of a homicide, the victim’s next of kin, of a pending pretrial disposition before a change of plea is entered before a judge.

“(A) A victim of any felony may request to be notified, by the district attorney’s office, of a pretrial disposition.

“(B) If it is not possible to notify the victim of the pretrial disposition before the change of plea is entered, the district attorney’s office or the county probation department shall notify the victim as soon as possible.

“(C) The victim may be notified by any reasonable means available.”

THE COMMISSION FINDS THAT:

There was no prior state requirement for the county district attorney’s office to carry out pretrial disposition notifications to either victims of violent felonies, as specified, or on request, to other victims of felonies.

Therefore, paragraph 12 as added to Penal Code section 679.02, subdivision (a), by Chapter 411, Statutes of 1995, establishes a new program of county notification of crime victims as follows:

- Notify the victim of a violent felony, as defined in Penal Code section 667.5, or in the event of a homicide, the victim’s next of kin, of a pending pretrial disposition before a change of plea is entered before a judge, or if it is not possible to notify before the change of plea is entered before a judge, as soon as possible.
- On request of the victim, to notify the victim of any felony of a pending pretrial disposition, as specified.

CONCLUSION

Based on the foregoing findings, the Commission approves the test claim and determines that:

The requirement for crime victim notification of pending pretrial dispositions as specified in Penal Code section 679.02 (a)(12), added by Chapter 411, Statutes of 1995, constitutes a new program or higher level of service in an existing program for counties, as defined in section 6, article XIIB of the California Constitution and Government Code section 17514.